

REMARKS

The Final Office Action is based on clear error and Applicant respectfully submits that it must be withdrawn. On p. 12 of the Final Office Action, the examiner asserts that U.S. Pub. 2003/0063584 A1 to Sayeedi (Sayeedi '584) explicitly discloses "dormant handoffs of multiple service instances." As Applicant's prior response pointed out, there is not one single instance of the phrase "service instance" appearing in the text or drawings of Sayeedi '584. Thus, it is clear error for the examiner to assert that paragraph [0013] and the Abstract of Sayeedi '584 state, "These enhancements will result in faster packet data call setups, reactivations, and dormant handoffs of multiple service instances while reducing over-the-air signaling." (Emphasis added by the examiner.)

Applicant notes with some frustration that Applicant's prior response carefully emphasized to the examiner that thorough electronic word searching of the entire Sayeedi '584 publication revealed the complete absence of any mention of the term "service instance," much less the particular language quoted by the examiner in support of the claim rejections. The language quoted by the examiner does appear in another Sayeedi publication, namely, U.S. Pub. 2004/0109423 A1 to Sayeedi (Sayeedi '423).

Indeed, the quoted language appears exactly in the Abstract and in paragraph [0013] of Sayeedi '423, but is entirely absent from Sayeedi '584. (Nor does there appear to be any incorporation by reference or cross-referencing of Sayeedi '584 and Sayeedi '423.) Thus, it is clear error to reject Applicant's claim 17 as anticipated by Sayeedi '584 and reject Applicant's claims 1-6, 8-13, 16, 18-23, 25, 28-40, and 43 as obvious over Sayeedi '584, in further view of U.S. Pat. 6,2026,086 to Lancelot, because the essential language used to make those rejections is found only in Sayeedi '423.

Moreover, without conceding that Sayeedi '423 teaches or suggests anything relevant to any of Applicant's pending claims, Applicant points out that Sayeedi '423 has a filing date later

than that of the instant application. Further, it appears that the priority claim in Sayeedi '423 postdates the priority claim of the instant application. It would appear, then, that Sayeedi '423 is not available for use under 35 USC 102(e).

In any case, it is clear error for the Final Office Action to assert that Sayeedi '584 is relevant to any pending claim, based on language entirely absent from Sayeedi '584 and found only in Sayeedi '423, which is not cited or otherwise identified in the rejections. For this reason, and for the reasons given in Applicant's prior response, Applicant requests that the Final Office Action be withdrawn.

As a further point, Applicant notes that the prior response did not argue the non-obviousness of rejected claims based on features not appearing in the claims. Page 12 of the Final Office Action suggests that Applicant argued for claim allowance based on features not found in the actual claim language. Rather, Applicant carefully explained that the claims at issue related to the limitations of recognizing that a mobile station being handed off has additional packet data service instances requiring dormant handoff and selectively assigning a traffic channel to the mobile station to cause the mobile station to send additional dormant handoff requests for the additional packet data service instances over the assigned traffic channel.

Applicant's prior response merely pointed out that the instant specification provided a clear discussion of why such operations were advantageous, and why such teachings could not be argued as present in Sayeedi '584. Applicant reiterates the previously submitted arguments, and reiterates that the examiner has not made out a prima facie case for obviousness.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



Michael D. Murphy
Registration No.: 44,958
Telephone: (919) 854-1844
Facsimile: (919) 854-2084

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